

## REMARKS

### Claims in the Application.

Claims 30-33 have been added. Claims 1-11 and 17-29 have been canceled. In light of the amendment and following remarks, Applicant respectfully submits that the active claims of this application are in a condition for Allowance and Notice to that effect is earnestly solicited.

### Rejection of Claims under 35 U.S.C. § 102.

The Examiner has rejected Claims 12, 13, 15, and 16 as being anticipated by U.S. Patent No. 4,525,410 (“*Hagiwara*”). Newly presented claims 30-33 are reinstated counterparts to these claims with amendments to the zeolite element. To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention either explicitly or inherently. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). For the following reasons, reconsideration is respectfully requested.

An element of the claims as presented herein is explained in paragraph 34 of the application as filed:

[0034] In a preferred embodiment the zeolite is activated by hydrothermal ion exchange modification which imparts zinc ions into the structure of the zeolite. In one embodiment the previously described clinoptilolite is treated by **boiling** in a solution of  $\text{ZnSO}_4 \cdot 7\text{H}_2\text{O}$  for a period sufficient to incorporate sufficient zinc into the clinoptilolite. The actual concentration of  $\text{ZnSO}_4 \cdot 7\text{H}_2\text{O}$  is selected from within the range of 1 to 10% by weight of  $\text{ZnSO}_4 \cdot 7\text{H}_2\text{O}$  so as to be sufficient to impart the desired biological activity while minimizing the concentration of zinc in the finished water and preventing staining of the apparatus. The **boiling time** may be from 2 hours to 15 hours. In a preferred embodiment the boiling time is 10 hours.

(emphasis added). *Hagiwara* does not disclose a hydrothermal ion-exchange activated zeolite. *Hagiwara* only discloses a zeolite and does not provide disclosure or teaching of the hydrothermal ion exchange.

All of the ion exchange found in *Hagiwara* occurs at room temperature. Specifically, *Hagiwara* discloses:

To 250 g of each of the fine dry powder of 6 kinds of the natural and synthetic zeolites described in Table 1 was added 500 ml of an aqueous 1/10M silver nitrate solution and

the mixture thus obtained was stirred for 3 hours **at room temperature** to perform the ion exchange.

Example 1 (emphasis added). *Hagiwara* also discloses:

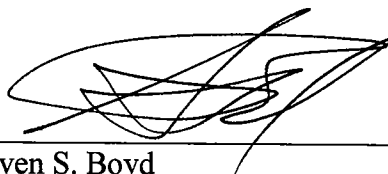
Also, to 200 g of each of two kinds of powder of natural zeolites, i.e., natural mordenite (2020A, trade name, made by Anaconda Minerals Company, fine powder finer than 100 mesh) and natural chabazite (5050L, trade name, made by Anaconda Minerals Company, fine powder finer than 100 mesh) was added 1 liter of an aqueous 1/20M zinc sulfate solution and the resultant mixture was stirred for 5 hours **at room temperature** to perform an ion exchange.

Example 3 (emphasis added). Because *Hagiwara* does not disclose hydrothermal ion exchange, at least one element of the claims is missing and reconsideration is respectfully requested.

### CONCLUSION

For the stated reasons, reconsideration is respectfully requested. The Commissioner is hereby authorized to charge or credit the Deposit Account No. 12-1322 of Locke Liddell & Sapp LLP under Order No. 021544-00002. In light of the foregoing remarks, the claims of the application have been distinguished over the cited references. The Examiner is requested to contact the undersigned at (713) 226-1218 should he deem it necessary to advance the prosecution of this application.

Respectfully submitted,



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